

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**DEC 19 2005**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

MOHAMMED ABDELSALAM,

Plaintiff - Appellant,

V.

UNITED INSURANCE COMPANY OF  
AMERICA; UNITRIN, INC.,

Defendants - Appellees.

No. 03-16076

D.C. No. CV-01-01575-GEB

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Garland E. Burrell, District Judge, Presiding

Argued and Submitted December 9, 2005  
San Francisco, California

Before: TROTT, T.G. NELSON, and PAEZ, Circuit Judges.

Mohammed Abdelsalam appeals the district court's summary judgment order in favor of United Insurance Company (United) and Unitrin, Inc. on his fourth cause of action--interference with a potential contractual relationship. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm the district court's order

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

regarding the short-term disability benefits claim but reverse on the long-term disability benefits claim.

United properly met its burden in moving for summary judgment on the short-term disability benefits claim by producing evidence negating an essential element in Abdelsalam's claim--a contractual relationship with a third party. See Nissan Fire & Marine Ins. Co., Ltd. v. Fritz Cos. Inc., 210 F.3d 1099, 1106 (9th Cir. 2000) (discussing summary judgment burdens); Korea Supply Co. v. Lockheed Martin Corp., 131 Cal. Rptr. 2d 29, 54 (Cal. 2003) (listing elements for interference with a potential contractual relationship). Michelle Crouse's declaration provides evidence that United's short-term disability plan is self-insured. This evidence shifted the burden to Abdelsalam to show an issue of material fact on the short-term disability claim. Because Abdelsalam did not oppose the motion, he failed to carry this burden.

United did not satisfy its burden in moving for summary judgment on the long-term disability claim because it failed to even mention this claim in its motion for summary judgment. United produced no evidence addressing Abdelsalam's claim for long-term disability benefits. Therefore, it failed to carry its initial summary judgment burden on this claim.

**AFFIRMED IN PART; REVERSED IN PART. Costs to Appellant.**